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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-193761

DATE: August 21, 1979

MATTER OF: Robert S. K. Lee - [Temporary lodging at family residence]

DIGEST: Employee who stayed at family residence while performing temporary duty may not be reimbursed lodging expenses. The Federal Travel Regulations require that the employee actually incur expenses for lodging since those allowances are based on actual lodging expenses. Further, the regulations require an agency to authorize only such per diem as the circumstances justify using care to prevent rates from exceeding necessary expenses.

This action is taken pursuant to a request for reconsideration of the denial on July 19, 1978, by our Claims Division of the portion of a claim for per diem in connection with temporary duty performed in Pearl Harbor, Hawaii, during the period from April to July, 1975, by Mr. Robert S. K. Lee, an employee of the Department of the Navy, Pearl Harbor Naval Shipyard. The Claims Division settlement disallowed the claim because no evidence could be found of additional lodging expense since Mr. Lee stayed in his own residence in Honolulu, Hawaii, during the time in question and did not incur lodging expenses as such. Therefore, the Claims Division found that the 50 percent per diem allowed was proper for reimbursement for the costs of meals and miscellaneous expenses incurred incident to performance of the TDY assignment.

The applicable regulations appear in the Federal Travel Regulations (FPMR 101-7, May 1973). FTR para. 1-7.3a requires each agency to authorize only such per diem allowance as is justified by the circumstances of the travel and enjoins each agency to use care to prevent per diem rates from exceeding necessary authorized expenses. More specifically, FTR para. 1-7.3c provides that "[n]o minimum allowance is authorized for lodging since those allowances are based on actual lodging expenses."

As stated by the Court of Claims in Bornhoft v. United States, 137 Ct. Cl. 134, 136 (1956):

"A subsistence allowance is intended to reimburse a traveler for having to eat in hotels and restaurants, and for having to rent a room * * * while still maintaining * * * his own permanent place of abode. It is supposed to cover the extra expenses incident to traveling."

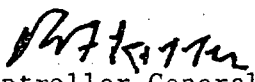
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Under the rule set forth in Bornhoft, the only lodging expenses incurred by a traveler which may properly be reimbursed are those which are incurred by reason of the travel and are in addition to the usual expenses of maintaining a residence.

Here, the claimant maintained his family residence in Honolulu, Hawaii. The costs of purchasing and maintaining the residence were completely independent of the travel. The claimant obligated himself to pay these costs independently of and without reference to his travel. In short his mortgage and maintenance payments would have been made irrespective of the travel. As such they are not properly for reimbursement. Sanford O. Silver, 56 Comp. Gen. 223 (1977).

Accordingly, Mr. Lee is not entitled to any reimbursement for lodging at his residence, and the settlement of July 19, 1978, denying that portion of the claim is sustained.


Deputy Comptroller General
of the United States